

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID FUENTES, SR.,
Plaintiff,

v.

MR. MANNING, et al.,
Defendants.

No. 2:23-0386 CSK P

ORDER

Plaintiff is a former state prisoner proceeding pro se. Defendants filed a motion to compel discovery responses on October 24, 2024. On October 29, 2024, defendants filed a status report concerning plaintiff's recent efforts to respond to discovery. Plaintiff's opposition to defendants' motion was due on November 14, 2024, but has not been filed. As discussed below, plaintiff is ordered to file an opposition or statement of non-opposition to defendants' motion to compel discovery and status report.

I. BACKGROUND

This action proceeds on plaintiff's second amended complaint against defendants Manning and Kissel alleging they failed to protect plaintiff from harm in violation of the Eighth Amendment. (ECF No. 15.)

On June 11, 2024, the Court issued the Discovery and Scheduling Order, setting the discovery deadline for October 11, 2024, and the pretrial motions deadline for January 13, 2025.

(ECF No. 27.) On August 14, 2024, the deadline for serving written discovery requests was extended to August 26, 2024, and the deadline to file any motions to compel was extended to October 25, 2024. (ECF No. 29.) On October 2, 2024, defendants' second motion to extend the discovery deadline was granted for the limited purpose of permitting defendants to take depositions of plaintiff and other nonparties; the deadline was extended to December 10, 2024. (ECF No. 32.)

II. DISCUSSION


Although it appears plaintiff submitted some form of discovery responses to defendants after defendants filed their motion, plaintiff has not filed an opposition or statement of no opposition to defendants' motion to compel discovery responses. Local Rule 230(l) provides in part: "Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion" Id. Plaintiff is granted an additional twenty-one days to file an opposition or statement of no opposition to defendants' motion to compel discovery responses (ECF No. 33). Plaintiff shall also address the information contained in defendants' status report (ECF No. 35).

Plaintiff is cautioned that he is required to cooperate in discovery. Failure to cooperate in discovery may result in the imposition of sanctions, including, but not limited to, a recommendation that this action be dismissed. See Fed. R. Civ. P. 37(b)(2)(A) (sanctions may be imposed for failure to comply with a discovery order); Fed. R. Civ. P. 37(d)(3) (sanctions may be imposed for failure to serve answers to interrogatories or to respond to request for production of documents).

Accordingly, IT IS HEREBY ORDERED that within twenty-one days from the date of this order, plaintiff shall file an opposition or statement of no opposition to defendants' motion to compel further discovery responses and defendants' status report. Plaintiff is cautioned that failure to file an opposition or statement of non-opposition may result in an order imposing sanctions, as set forth above.

Dated: November 19, 2024

/1/fuen0386.ext.mtc


2 CHI SOO KIM
UNITED STATES MAGISTRATE JUDGE